

## Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-09 NSAE-00 RSC-01 FAA-00 L-03 DOTE-00 SS-14 NSC-10

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DRAFTED BY EB/ AN: MHSTYLES: SLM

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CAB - M CHESEN

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FM SECSTATE WASHDC

TO AMEMBASSY BONN

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E. O. 11652: N/ A

TAGS: ETRN, GW

SUBJ: CIVAIR-- CHARTER UNDERSTANDING

REF: BONN 4156

1. GUIDANCE RE QUESTIONS POSED PARA 6 REFTEL IS AS FOLLOWS:

A. PHRASE IN ROMAN I SUBPARA A( B) RE TRAFFIC ORIGINATING OUTSIDE TERRITORY EITHER PARTY IS INTENDED COVER SITUATION WHERE, FOR EXAMPLE, A CARRIER PROPOSES TO OPERATE A CIRCLE TOUR CHARTER TORONTO- FRANKFURT- NYC- TORONTO. IF US HAS ACCEPTED CANADIAN ABC RULE, US WOULD ACCEPT THIS FLIGHT AS CHARTERWORTHY UNDER CANADA' S ABC RULE ( AND PRESUMABLY SO WOULD FRG). ALTHOUGH IT NOT LIKELY THERE WILL BE MANY FLIGHTS OF SUCH TYPES, WE BELIEVE PROVISION IS APPROPRIATE IN TERMS CLARIFYING SITUATION IN THESE CASES.

B. RE COMMINGLING QUESTION, IT SHOULD BE UNDERSTANDING THAT WORDING IN QUESTION DOES NOT IN ITSELF AUTHORIZE COMMINGLING WITH OTHER CHARTER TYPES, THIS BEING DETERMINED BY TGC OR ABC RULE, WHICHEVER APPLICABLE. UNDER TGC RULE, LIMITED OFFICIAL USE

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COMMINGLING IS PERMITTED FOR ANY OTHER TYPE OF CHARTER TYPE ORGANIZED IN ACCORDANCE OTHER CAB REGULATIONS, AND MINIMUM GROUP IS 40. GERMAN ABC RULE DOES NOT PERMIT COMMINGLING ( EXCEPT AMONG TWO OR MORE ABC GROUPS). IT IS INTENT OF UNDERSTANDING, HOWEVER ( SEE FOOTNOTE 3) THAT BOTH SIDES WOULD ALLOW COMMINGLING OF ABC AND TGC GROUP ON SAME AIRCRAFT.

C. RE MINIMUM PRICE QUESTION, THE PROPOSED UNDERSTANDING DOES NOT ADDRESS THE QUESTION OF WHAT THE APPROPRIATE PRICES SHOULD BE, BUT ONLY SPECIFIES THE REQUIREMENT FOR FILING AND ENFORCEMENT OF TARIFFS ETC. AGAIN, WE SHOULD STRESS THAT PURPOSE OF UNDERSTANDING IS NOT TO SETTLE ECONOMIC ISSUES ( E. G. TRAFFIC RIGHTS, PRICES, ETC.) BUT TO SETTLE WHOSE RULE DETERMINED CHARTERWORTHINESS AND TO SET DOWN APPROPRIATE PROCEDURES ( E. G. RE RATES) ON RELEVANT TECHNICAL ASPECTS. RE RATE PROCEDURES, UNDER US SYSTEM, CARRIERS HAVE TO FILE WITH CAB TARIFFS SHOWING WHAT THEY CHARGE ORGANIZERS FOR CHARTER FLIGHTS WHETHER TGC, ABC, AFFINITY, ETC. THUS, MINIMUM PRICE ( CHARGED TO PASSENGER) REQUIRED BY FRG FOR ABC FLIGHT OUT OF GERMANY WOULD BE SUBSUMED WITHIN TOTAL PRICE CHARGED BY CARRIER TO ORGANIZER AS FILED WITH CAB. SINCE FRG SETS MINIMUM PRICE REQUIREMENT ONLY FOR ABC' S OUT OF GERMANY, IT WOULD PRESUMABLY REQUIRE ONLY FILING OF THE CHARTER PRICE FOR A TGC OUT OF US. IN BRIEF, WE DO NOT SEE THAT THESE DIFFERENT PROCEDURES SHOULD LEAD TO PROBLEM, AND WORDING IN UNDERSTANDING APPEARS SUFFICIENT.

2. RE FORM OF CONCLUDING UNDERSTANDING, IT IS ESSENTIAL THAT THE UNDERSTANDING HAVE THE FORCE OF AN INTERGOVERNMENTAL AGREEMENT. NORMALLY, THIS IS DONE BY EXCHANGE DIPLOMATIC NOTES AND DEPARTMENT MUCH PREFERS THIS PROCEDURE HERE. EXCHANGE OF LETTERS BETWEEN AVIATION AUTHORITIES WOULD NOT BE SUFFICIENT, SINCE CAB CANNOT ENTER INTO INTERGOVERNMENTAL COMMITMENT. A POSSIBLY ACCEPTABLE ALTERNATIVE WOULD BE EXCHANGE OF LETTERS BETWEEN AMBASSADOR AND GERMAN MINISTER OF TRANSPORT, SINCE MINISTER, AS MEMBER CABINET, WOULD COMMIT GOVERNMENT.

3. RE FMT  
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\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* LIMITED OFFICIAL USE

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**Disposition Case Number:** n/a  
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**Disposition Date:** 28 MAY 2004  
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**TAGS:** ETRN, GW  
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